IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 11TH JANUARY 2007 / 21ST PAUSHA 1928

MFA.No. 614 of 2002(C)

OPMV.416/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KALPETTA

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APPELLANT: PETITIONER

NIKHIL, S/O.A.V.GEORGE,
AKKAPPADIKKAL HOUSE, KODENCEHRRY.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS: RESPONDENTS

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1. N.S.PREMKUMAR @ N.S.PREMARAJAN,
   AGED 26 YEARS, S/O.N.K.SANKARAN, POOTHERI,
   ARAKKAMPARAMBATH HOUSE, NARIKKODU MUKKU,
   VYTHIRI P.O., (DRIVER-CUM-WONER OF THE AUTORISHAW
   NO.KI-12/280) DL.NO.253/93-W.

2. NEW INDIA ASSURANCE COMPANY,
   KALPETTA NORTH, POLICY NO.3176060404837
   VALID FROM 19/1/95 TO 16/2/96.

BY ADV. SRI.P.G.GANAPPAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 11/01/2007, THE COURT ON ON THE SAME DAY DELIVERED THE FOLLOWING:

K.T.SANKARAN, J

M.F.A. No.614 of 2002

Dated this the 11th day of January, 2007

JUDGMENT

The appellant, a minor sustained injuries in a road accident, which occurred on 15.4.1995. The appellant was traveling in an autorikshaw driven by the first respondent. The autorikshaw capsized and the appellant sustained injuries. The appellant was taken to Medical College Hospital, Calicut and was treated as inpatient there for thirteen days. Thereafter he was treated as outpatient.

2. The appellant claimed a total sum of Rupees One lakh as compensation. The Tribunal awarded only a sum of Rs.10,300/- as compensation. The appellant submits that the amount awarded by the Tribunal is very low.

3. As against the claim for Rs.35,000/- under the head 'pain and suffering', the Tribunal awarded only a sum of Rs.4,000/-. It has come out in evidence that the appellant was an inpatient in the Medical College hospital and that he continued his treatment even after discharge. The appellant contends that

he had to undergo plastic surgery as well. I am of the view that the amount awarded on this count by the Tribunal is low and that it is only just and proper to award a sum of Rs.7,500/- for pain and suffering. The appellant claimed a sum of Rs.35,000/- as compensation for permanent disability and Rs.15,000/- as compensation for loss of earning power. The Tribunal held that the appellant is entitled to only a sum of Rs.5,000/- on these counts. It was noticed by the Tribunal that the appellant was having a prominent scar extending from lateral end of right eyebrow vertically to scalp. Considering the facts and circumstances of the case and the evidence on record, I am of the view that the appellant is entitled to get Rs.10,000/- as compensation as against the award of Rs.5,000/-.

4. In the result, the appeal is allowed in part and as against the award of Rs.10,300/- granted by the Tribunal, the appellant is granted award for Rs.18,800/-. The appellant shall also be entitled to get interest at 7.5% on the additional sum of Rs.8,500/- awarded from the date of petition till the date of payment of the interim award.

The award passed by the Tribunal is modified to the extent indicated above.

K.T.SANKARAN,
JUDGE

csl